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REMARKS

Claims 66-69, 72-76, 78-108 were pending. Applicants' appeal brief was filed on January 23, 2004, and the Examiner withdrew the finality of the Office Action mailed on April 30, 2003 in order to add a new ground of rejection, namely double patenting based on the judicially created nonstatutory doctrine. Applicants filed a response on 7/13/2004, stating that a terminal disclaimer would be submitted upon receipt of nonification of allowable subject matter. Applicants also provided claim amendments to correctly state the status of the claims and to make minor corrections for antecedent basis reasons and to replace language which might have been construed as process steps. All amendments were made for clarity and not to address prior art rejections.

In response, the Examiner withdrew claim 108 and rejected all other claims under 35 USC §112.

35 USC §112 REJECTIONS

All claims are rejected as containing subject matter not described in the specification thereby constituting new matter.

The Examiner rejected Claims 66, 67, 76, 83, 106 based upon use of the term "solution". The term "solution" is supported in the specification on at least page 6, lines 28-30; Example 1 on page 11, lines 19-20; Example 2, page 13, lines 5-8; Example 4 on page 16, lines 22-25; Examples 5, 7, 8 and 9. Specifically, page 6, lines 22-25 state that "The protein, sugar or sugar alcohol, and structuring agent can be mixed, for example, in solution or as a slurry. The protein can be applied from a solution or applied in slurry form as a suspension of crystals or precipitated protein." This language illustrates that the protein component may be a solution. Additionally, the sugar or sugar alcohol and polysaccharide structuring agent combination may be a "solution", as set out, for instance, in Example 2, specifically lines 7-9, stating that the enzyme component may be added to "...an aqueous solution" of starch and sugar components. Examples 5, 7, 8 and 94 and 7 further describe other varying "solutions" of starch and sugar components.

The Examiner further stated that Example on page 13 is a different embodiment of the invention as compared to claim 83 in that "the granule has a plurality of seeds (as compared to instantly claimed granules having a single seed). Applicants are concerned that the Examiner does not appear to understand the invention, particularly the process of the invention, even now. The Example on page 13 uses sodium sulfate crystals in a batch process, which fluidizes the crystals and allows each crystal to be coated as described. There is nothing in the Example to suggest that a granule formed in this fluid bed process

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has a plurality of seeds. The Examiner is referred to specification page 6, as has been pointed out in previous responses, specifically to lines 13-25 describing the use of seed particles which can be composed of "inorganic salts, sugars.." etc, and further stating that "if a seed particle is used then the ratio of seed particles to granules is 1:1". The crystal in the example is a seed particle.

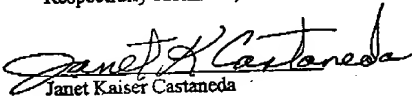
The Examiner further rejected Claim 79 for the use of "cellulose derivatives" in plural form, stating that the specification does not disclose that one particular coating contains a plurality of cellulose derivatives. The Examiner is reminded that Claim 79 is to a coating layer "selected from" a number of compounds and this language is understood to mean that the coating may contain one or more of the listed compounds. Certainly this language was utilized in original claims 11 and 44; and, the coatings described on page 9, lines 29-33 through page 10, line 22 include a list of possible cellulose derivatives.

Applicants respectfully request withdrawal of the rejections because no new matter has been added and to better position the case for the pending appeal. Applicants' arguments with regard to the previous 35 USC §103 rejections are hereby incorporated by reference and remain in the case.

The Examiner is invited to telephone the undersigned if there are questions or comments regarding this amendment.

Respectfully submitted,

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